

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

**In re: PHARMACEUTICAL INDUSTRY
AVERAGE WHOLESALE PRICE LITIGATION**

)
) **MDL No. 1456**
) **Master File No. 01-CV-12257-PBS**
) **Subcategory Case No. 06-11337**
) **Hon. Patti B. Saris**

THIS DOCUMENT RELATES TO:

U.S. ex rel. Ven-A-Care of the Florida Keys, Inc. v. Dey, Inc., et al., No. 05-CV-11084-PBS; and

U.S. ex rel. Ven-A-Care of the Florida Keys, Inc. v. Boehringer Ingelheim Corp. et al., No. 07-CV-10248-PBS

)
) **Magistrate Judge**
) **Marianne B. Bowler**

NOTICE OF DECISION IN RELATED STATE CASE

Defendants Dey, Inc., Dey, L.P., and Dey L.P., Inc. (collectively, “Dey”) and Boehringer Ingelheim Roxane, Inc. (f/k/a Roxane Laboratories, Inc.) (“Roxane”) (collectively, “Defendants”) hereby submit the following notice to highlight a highly relevant decision in a related state action. Attached hereto as Exhibit 1 is a copy of a decision rendered by the Alabama Supreme Court on October 16, 2009 in *AstraZeneca LP, et al. v. Alabama*, Case No. 1071439, *AstraZeneca LP, et al. v. Alabama*, Case No. 1071440, *Smithkline Beecham Corporation d/b/a Glaxosmithkline v. State of Alabama*, Case No. 1071704, and *Novartis Pharmaceuticals Corporation v. State of Alabama*, Case NO. 1071759.

In its decision, the Alabama Supreme Court reversed judgments in favor of the State of Alabama and rendered judgments in favor of AstraZeneca, Novartis, and Glaxosmithkline. *See* Exhibit 1 at 43. Defendants respectfully ask this Court to consider this decision in connection with the summary judgment motions pending before the Court.

Dated: October 19, 2009

/s/ Sarah L. Reid

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Roxane Laboratories, Inc.*

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing was delivered to all counsel of record by electronic service pursuant to Paragraph 11 of Case Management Order No. 2, by sending on October 19, 2009, a copy to LexisNexis File & Serve for posting and notification to all parties.

_____/s Sarah L. Reid